

SEP 13 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DAVID IKAHIHIFO AFUHAAMANGO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-71828

Agency No. A42-208-377

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 27, 2006^{**}
San Francisco, California

Before: T.G. NELSON, SILVERMAN, and RAWLINSON, Circuit Judges.

David Ikahihifo Afuhaamango petitions for review from the Immigration Judge (IJ) and Board of Immigration Appeals' (BIA) denials of his motion to reopen. We dismiss the petition in part and deny it in part.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Afuhaamango did not establish exceptional circumstances under 8 U.S.C. § 1229a(b)(5)(C)(1) or under case law interpreting that provision.¹ We lack jurisdiction over his claim that the government never established removability because he failed to raise that claim before the BIA or the IJ.²

DISMISSED IN PART AND DENIED IN PART.

¹ See *Singh v. INS*, 295 F.3d 1037, 1039–40 (9th Cir. 2002) (finding exceptional circumstances where the petitioner was eligible for adjustment of status as the spouse of an American citizen and was the beneficiary of an already-approved immediate relative petition).

² See *Morales-Alegria v. Gonzales*, 449 F.3d 1051, 1059 (9th Cir. 2006) (holding that a failure to raise an issue before the BIA deprives the court of jurisdiction).